

CHAPTER 24. SUBSTANTIVE RULES APPLICABLE TO WATER AND SEWER SERVICE PROVIDERS.

Subchapter B. RATES, RATE-MAKING, AND RATES/TARIFF CHANGES.

§24.21. Form and Filing of Tariffs.

- (a) **Approved tariff.** A utility may not directly or indirectly demand, charge, or collect any rate or charge, or impose any classifications, practices, rules, or regulations different from those prescribed in its approved tariff filed with the commission or with the municipality exercising original jurisdiction over the utility, except as noted in this subsection. A utility may charge the rates proposed under TWC §13.187 or §13.1871 on or after the proposed effective date, unless the proposed effective date of the proposed rates is suspended or the commission sets interim rates. The regulatory assessment required in TWC §5.235(n) does not have to be listed on the utility's approved tariff to be charged and collected but must be included in the tariff at the earliest opportunity. A person who possesses facilities used to provide water utility service or a utility that holds a certificate of public convenience and necessity to provide water service that enters into an agreement in accordance with TWC §13.250(b)(2), may collect charges for wastewater services on behalf of another retail public utility on the same bill with its water charges and shall at the earliest opportunity include a notation on its tariff that it has entered into such an agreement. A utility may enter into a contract with a county to collect solid waste disposal fees and include those fees on the same bill with its water charges and shall at the earliest opportunity include a notation on its tariff that it has entered into such an agreement.
- (b) **Requirements as to size, form, identification, minor changes, and filing of tariffs.**
- (1) **Tariffs filed with applications for certificates of convenience and necessity.**
- (A) Every public utility shall file its tariff with the commission containing schedules of all its rates, tolls, charges, rules, and regulations pertaining to all of its utility service when it applies for a certificate of convenience and necessity to operate as a public utility. The tariff must be on the form the commission prescribes or another form acceptable to the commission.
- (B) Every water supply or sewer service corporation shall file with the commission a complete tariff containing schedules of all its rates, tolls, charges, rules, and regulations pertaining to all of its utility service when it applies for a certificate of convenience and necessity to operate as a retail public utility.
- (2) **Minor tariff changes.** Except for an affected county, a public utility's approved tariff may not be changed or amended without commission approval. An affected county may change rates for water or wastewater service without commission approval but shall file a copy of the revised tariff with the commission within 30 days after the effective date of the rate change.
- (A) The commission may approve the following minor changes to tariffs:
- (i) service rules and policies;
 - (ii) changes in fees for customer deposits, meter tests, return check charges, and late charges, provided they do not exceed the maximum allowed by the applicable sections;
 - (iii) implementation of a purchased water or sewage treatment provision, a temporary water rate provision in response to mandatory reductions in water use imposed by a court, government agency, or other authority, or water use fee provision previously approved by the commission;
 - (iv) surcharges over a time period determined to reflect the change in the actual cost to the utility for sampling costs, commission inspection fees, or as appropriate, other governmental requirements beyond the utility's control;
 - (v) addition of the regulatory assessment as a separate item or to be included in the currently authorized rate;
 - (vi) addition of a provision allowing a utility to collect wastewater charges in accordance with TWC §13.250(b)(2) or §13.147(d);

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- (vii) rate adjustments to implement authorized phased or multi-step rates or downward rate adjustments to reconcile rates with actual costs;
 - (viii) addition of a production fee charged by a groundwater conservation district as a separate item calculated by multiplying the customer's total consumption, including the number of gallons in the base bill, by the actual production fee per thousand gallons; or
 - (ix) implementation of an energy cost adjustment clause.
 - (B) The addition of an extension policy to a tariff or a change to an existing extension policy does not qualify as a minor tariff change because it must be approved or amended in a rate change application.
 - (3) **Tariff revisions and tariffs filed with rate changes.**
 - (A) The utility shall file its revision with the commission. Each revision must be accompanied by a cover page that contains a list of pages being revised, a statement describing each change, its effect if it is a change in an existing rate, and a statement as to impact on rates of the change by customer class, if any. If a proposed tariff revision constitutes an increase in existing rates of a particular customer class or classes, then the commission may require that notice be given.
 - (B) Symbols for changes. Each proposed tariff sheet accompanying an application filed pursuant to TWC §13.187 or §13.1871 shall contain notations in the right-hand margin indicating each change made on the sheets. Notations to be used are: (C) to denote a change in regulations; (D) to denote discontinued rates or regulations; (E) to denote the correction of an error made during a revision (the revision which resulted in the error must be one connected to some material contained in the tariff prior to the revision); (I) to denote a rate increase; (N) to denote a new rate or regulation; (R) to denote a rate reduction; and (T) to denote a change in text, but no change in rate or regulation. In addition to symbols for changes, each changed provision in the tariff shall contain a vertical line in the right-hand margin of the page, which clearly shows the exact number of lines being changed.
 - (4) **Rate schedule.** Each rate schedule must clearly state the territory, subdivision, city, or county in which the schedule is applicable.
 - (5) **Tariff sheets.** Tariff sheets must be numbered consecutively. Each sheet must show an effective date, a revision number, section number, sheet number, name of the utility, the name of the tariff, and title of the section in a consistent manner. Sheets issued under new numbers must be designated as original sheets. Sheets being revised must show the number of the revision, and the sheet numbers must be the same.
- (c) **Composition of tariffs.** A utility's tariff, including those utilities operating within the corporate limits of a municipality, must contain sections setting forth:
- (1) a table of contents;
 - (2) a list of the cities and counties, and subdivisions or systems, in which service is provided;
 - (3) the certificate of convenience and necessity number under which service is provided;
 - (4) the rate schedules;
 - (5) the service rules and regulations, including forms of the service agreements, if any, and customer service inspection forms required to be completed under 30 TAC §290.46(j) (relating to Minimum Acceptable Operating Practices for Public Drinking Water Systems) if the form used deviates from that specified in 30 TAC §290.47(d) (relating to Appendices);
 - (6) the extension policy;

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- (7) an approved drought contingency plan as required by 30 TAC §288.20 (relating to Drought Contingency Plans for Municipal Uses by Public Water Suppliers); and
 - (8) the form of payment to be accepted for utility services.
- (d) **Tariff filings in response to commission orders.** Tariff filings made in response to an order issued by the commission must include a transmittal letter stating that the tariffs attached are in compliance with the order, giving the docket number, date of the order, a list of tariff sheets filed, and any other necessary information. Any service rules proposed in addition to those listed on the commission's model tariff or any modifications of a rule in the model tariff must be clearly noted. All tariff sheets must comply with all other sections in this chapter and must include only changes ordered. The effective date and/or wording of the tariffs must comply with the provisions of the order.
- (e) **Availability of tariffs.** Each utility shall make available to the public at each of its business offices and designated sales offices within Texas all of its tariffs currently on file with the commission or regulatory authority, and its employees shall lend assistance to persons requesting information and afford these persons an opportunity to examine any of such tariffs upon request. The utility also shall provide copies of any portion of the tariffs at a reasonable cost to reproduce such tariff for a requesting party.
- (f) **Rejection.** Any tariff filed with the commission and found not to be in compliance with this section must be so marked and returned to the utility with a brief explanation of the reasons for rejection.
- (g) **Change by other regulatory authorities.** Tariffs must be filed to reflect changes in rates or regulations set by other regulatory authorities and must include a copy of the order or ordinance authorizing the change. Each utility operating within the corporate limits of a municipality exercising original jurisdiction shall file with the commission a copy of its current tariff that has been authorized by the municipality.
- (h) **Purchased water or sewage treatment provision.**
 - (1) A utility that purchases water or sewage treatment may include a provision in its tariff to pass through to its customers changes in such costs. The provision must specify how it is calculated and affects customer billings.
 - (2) This provision must be approved by the commission in a rate proceeding. A proposed change in the method of calculation of the provision must be approved in a rate proceeding.
 - (3) Once the provision is approved, any revision of a utility's billings to its customers to allow for the recovery of additional costs under the provision may be made only upon issuing notice as required by paragraph (4) of this subsection. The review of a proposed revision is an informal proceeding. Only the commission staff, or the utility may request a hearing on the proposed revision. The recovery of additional costs is defined as an increase in water use fees or in costs of purchased water or sewage treatment.
 - (4) A utility that wishes to revise utility billings to its customers pursuant to an approved purchased water or sewer treatment or water use fee provision to allow for the recovery of additional costs shall take the following actions prior to the beginning of the billing period in which the revision takes effect:
 - (A) submit a written notice to the commission; and
 - (B) e-mail (if the customer has agreed to receive communications electronically) or mail notice to the utility's customers. Notice may be in the form of a billing insert and must contain the effective date of the change, the present calculation of customer billings, the new calculation of customer billings, and the change in charges to the utility for purchased water or sewage treatment or water use fees. The notice must include the following language: "This tariff change is being implemented in accordance with the

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utility's approved (purchased water) (purchased sewer) (water use fee) adjustment clause to recognize (increases) (decreases) in the (water use fee) (cost of purchased) (water) (sewage treatment). The cost of these charges to customers will not exceed the (increased) (decreased) cost of (the water use fee) (purchased) (water) (sewage treatment)."

- (5) Notice to the commission must include a copy of the notice sent to the customers, proof that the cost of purchased water or sewage treatment has changed by the stated amount, and the calculations and assumptions used to determine the new rates.
- (6) Purchased water or sewage treatment provisions may not apply to contracts or transactions between affiliated interests.
- (i) **Effective date.** The effective date of a tariff change is the date of approval by the commission, unless otherwise specified in a commission order or rule. The effective date of a proposed rate increase under TWC §13.187 or §13.1871 is the proposed date on the notice to customers and the commission, unless suspended by the commission.
- (j) **Tariffs filed by water supply or sewer service corporations.** Every water supply or sewer service corporation shall file, for informational purposes only, three complete copies of its tariff showing all rates that are subject to the appellate jurisdiction of the commission and that are in force for any utility service, product, or commodity offered. The tariff must include all rules and regulations relating to or affecting the rates, utility service or extension of service or product, or commodity furnished and shall specify the certificate of convenience and necessity number and in which counties or cities it is effective.
- (k) **Surcharge.**
 - (1) A surcharge is an authorized rate to collect revenues over and above the usual cost of service.
 - (2) If specifically authorized for the utility in writing by the commission or the municipality exercising original jurisdiction over the utility, a surcharge to recover the actual increase in costs to the utility may be collected over a specifically authorized time period without being listed on the approved tariff for:
 - (A) sampling fees not already included in rates;
 - (B) inspection fees not already included in rates;
 - (C) production fees or connection fees not already included in rates charged by a groundwater conservation district; or
 - (D) other governmental requirements beyond the control of the utility.
 - (3) A utility shall use the revenues collected pursuant to a surcharge only for the purposes noted and handle the funds in the manner specified according to the notice or application submitted by the utility to the commission. The utility may redirect or use the revenues for other purposes only after first obtaining the approval of commission.
- (l) **Temporary water rate provision for mandatory water use reduction.**
 - (1) A utility's tariff may include a temporary water rate provision that will allow the utility to increase its retail customer rates during periods when a court, government agency, or other authority orders mandatory water use reduction measures that affect the utility customers' use of water service and the utility's water revenues. Implementation of the temporary water rate provision will allow the utility to recover from customers' revenues that the utility would otherwise have lost due to mandatory water use reductions in accordance with the temporary water rate provision approved by the commission. If a utility obtains a portion of its water supply from another unrestricted water source or water supplier during the time the temporary water rate is in effect, the rate resulting from implementation of the temporary water rate provision must be adjusted to account for the

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supplemental water supply and to limit over recovery of revenues from customers. A temporary water rate provision may not be implemented by a utility if there exists an available, unrestricted, alternative water supply that the utility can use to immediately replace, without additional cost, the water made unavailable because of the action requiring a mandatory reduction of use of the affected water supply.

- (2) The temporary water rate provision must be approved by the commission in a rate proceeding before it may be included in the utility's approved tariff or implemented as provided in this subsection. A proposed change in the temporary water rate must be approved in a rate proceeding. A utility that has filed a rate change within the last 12 months may file a request for the limited purpose of obtaining a temporary water rate provision.
- (3) A utility may request a temporary water rate provision for mandatory water use reduction using the formula in this paragraph to recover 50% or less of the revenues that would otherwise have been lost due to mandatory water use reductions through a limited rate proceeding. The formula for a temporary water rate provision for mandatory water use reduction under this paragraph is:

TGC = Temporary gallonage charge

cgc = current gallonage charge

r = water use reduction expressed as a decimal fraction (the pumping restriction)

pr = percentage of revenues to be recovered expressed as a decimal fraction (i.e., 50% = 0.5)

$TGC = cgc + [(pr)(cgc)(r)/(1.0-r)]$

- (A) The utility shall file a temporary water rate provision for mandatory water use reduction application and provide customer notice as required by the commission, but is not required to provide complete financial data to support its existing rates. Notice must include a statement of when the temporary water rate provision would be implemented, the customer class(es) affected, the rates affected, information on how to protest the rate change, the address of the commission, the time frame for protests, and any other information that is required by the commission in the temporary water rate application. The utility's existing rates are not subject to review in the proceeding and the utility is only required to support the need for the temporary rate. A request for a temporary water rate provision for mandatory water use reduction under this paragraph is not considered a statement of intent to increase rates subject to the 12-month limitation in §24.23 of this title (relating to Time Between Filings).
 - (B) The utility shall establish that the projected revenues that will be generated by the temporary water rate provision are required by the utility to pay reasonable and necessary expenses that will be incurred by the utility during the time mandatory water use reductions are in effect.
- (4) A utility may request a temporary water rate provision for mandatory water use reduction using the formula in paragraph (3) of this subsection or any other method acceptable to the commission to recover up to 100% of the revenues that would otherwise have been lost due to mandatory water use reductions.
 - (A) If the utility requests authorization to recover more than 50% of lost revenues, it shall submit financial data to support its existing rates as well as the temporary water rate provision for mandatory water use reduction even if no other rates are proposed to be changed. The utility's existing rates are subject to review in addition to the temporary water rate provision for mandatory water use reduction.
 - (B) The utility shall establish that the projected revenues that will be generated by the temporary water rate provision for mandatory water use reduction are required by the utility to pay reasonable and necessary expenses that will be incurred by the utility during

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- the time mandatory water use reductions are in effect; that the rate of return granted by the commission in the utility's last rate case does not adequately compensate the utility for the foreseeable risk that mandatory water use reductions will be ordered; and that revenues generated by existing rates do not exceed reasonable cost of service.
- (5) The utility may place the temporary water rate into effect only after:
 - (A) the temporary water provision has been approved by the commission and included in the utility's approved tariff in a prior rate proceeding;
 - (B) there is an action by a court, government agency, or other authority requiring mandatory water use reduction measures that affect the utility's customers' use of utility services; and
 - (C) issuing notice as required by paragraph (7) of this subsection.
 - (6) The utility may readjust its rates using the temporary water rate provision for mandatory water use reduction as necessary to respond to modifications or changes to the original order requiring mandatory water use reductions by reissuing notice as required by paragraph (7) of this subsection. Only the commission or the utility may request a hearing on the proposed implementation.
 - (7) A utility that wishes to place a temporary water rate for mandatory water use reduction into effect shall take the following actions prior to the beginning of the billing period in which the temporary water rate for mandatory water use reduction takes effect:
 - (A) submit a written notice, including a copy of the notice received from the court, government agency, or other authority requiring the reduction in water use, to the commission; and
 - (B) e-mail, if the customer has agreed to receive communications electronically, or mail notice to the utility's customers. Notice may be in the form of a billing insert and must contain the effective date of the implementation and the new rate the customers will pay after the temporary water rate is implemented. The notice must include the following language: "This rate change is being implemented in accordance with the temporary water rate provision approved by the Public Utility Commission of Texas to recognize the loss of revenues due to mandatory water use reduction ordered by (name of entity issuing order). The new rates will be effective on (date) and will remain in effect until the mandatory water use reductions are lifted or expired. The purpose of the rate is to ensure the financial integrity of the utility. The utility will recover through the rate (the percentage authorized by the temporary rate) % of the revenues the utility would otherwise have lost due to mandatory water use reduction by increasing the volume charge from (\$ per 1,000 gallons to \$ per 1,000 gallons)."
 - (8) A utility shall stop charging a temporary water rate as soon as is practical after the order that required mandatory water use reduction is ended, but in no case later than the end of the billing period that was in effect when the order was ended. The utility shall notify its customers of the date that the temporary water rate ends and that its rates will return to the level authorized before the temporary water rate was implemented.
 - (9) If the commission initiates an inquiry into the appropriateness or the continuation of a temporary water rate, it may establish the effective date of its decision on or after the date the inquiry is filed.
- (m) **Multiple system consolidation.** Except as otherwise provided in subsection (o) of this section, a utility may consolidate its tariff and rate design for more than one system if:
- (1) the systems included in the tariff are substantially similar in terms of facilities, quality of service, and cost of service; and
 - (2) the tariff provides for rates that promote water conservation for single- family residences and landscape irrigation.

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- (n) **Regional rates.** The commission, where practicable, shall consolidate the rates by region for applications submitted under TWC §13.187 or §13.1871 with a consolidated tariff and rate design for more than one system.
- (o) **Exemption.** Subsection (m) of this section does not apply to a utility that provided service in only 24 counties on January 1, 2003.
- (p) **Energy cost adjustment clause.**
 - (1) A utility that purchases energy (electricity or natural gas) that is necessary for the provision of water or sewer service may request the inclusion of an energy cost adjustment clause in its tariff to allow the utility to adjust its rates to reflect increases and decreases in documented energy costs.
 - (2) A utility that requests the inclusion of an energy cost adjustment clause in its tariff shall file an application with the commission. The utility shall also give notice of the proposed energy cost adjustment clause by mail, either separately or accompanying customer billings, e-mail or by hand delivery to all affected utility customers at least 60 days prior to the proposed effective date. Proof of notice in the form of an affidavit stating that proper notice was delivered to affected customers and stating the dates of such delivery shall be filed with the commission by the applicant utility as part of the application. Notice must be provided on the notice form included in the commission's application package and must contain the following information:
 - (A) the utility name and address, a description of how the increase or decrease in energy costs will be calculated, the effective date of the proposed change, and the classes of utility customers affected. The effective date of the proposed energy cost adjustment clause must be the first day of a billing period, which should correspond to the day of the month when meters are typically read, and the clause may not apply to service received before the effective date of the clause;
 - (B) information on how to submit comments regarding the energy cost adjustment clause, the address of the commission, and the time frame for comments; and
 - (C) any other information that is required by the application form.
 - (3) The commission's review of the utility's application is an uncontested matter not subject to a contested case hearing. However, the commission shall hold an uncontested public meeting on the application if requested by a member of the legislature who represents the area served by the utility or if the commission determines that there is substantial public interest in the matter.
 - (4) Once an energy cost adjustment clause has been approved, documented changes in energy costs must be passed through to the utility's customers within a reasonable time. The pass through, whether an increase or decrease, shall be implemented on at least an annual basis, unless the commission determines a special circumstance applies. Anytime changes are being made using this provision, notice shall be provided as required by paragraph (5) of this subsection.
 - (5) Before a utility implements a change in its energy cost adjustment clause as required by paragraph (4) of this subsection, the utility shall take the following actions prior to the beginning of the billing period in which the implementation takes effect:
 - (A) submit written notice to the commission, which must include a copy of the notice sent to the customers, proof that the documented energy costs have changed by the stated amount; and
 - (B) e-mail, if the customer has agreed to receive communications electronically, mail either separately or accompanying customer billings, or hand deliver notice to the utility's affected customers. Notice must contain the effective date of change and the increase or decrease in charges to the utility for documented energy costs. The notice must include the following language: "This tariff change is being implemented in accordance with the utility's approved energy cost adjustment clause to recognize (increases) (decreases) in

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- the documented energy costs. The cost of these charges to customers will not exceed the (increase) (decrease) in documented energy costs.”
- (6) The commission may suspend the adoption or implementation of an energy cost adjustment clause if the utility has failed to properly complete the application or has failed to comply with the notice requirements or proof of notice requirements. If the utility cannot clearly demonstrate how the clause is calculated, the increase or decrease in documented energy costs or how the increase or decrease in documented energy costs will affect rates, the commission may suspend the adoption or implementation of the clause until the utility provides additional documentation requested by the commission. If the commission suspends the adoption or implementation of the clause, the adoption or implementation will be effective on the date specified by the commission
 - (7) Energy cost adjustment clauses may not apply to contracts or transactions between affiliated interests.
 - (8) A proceeding under this subsection is not a rate case pursuant to TWC §13.187, §13.1871, or §13.1872.